

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Ind. No. 15-CR-95 (AJN)

-against-

**NOTICE OF MOTION**

NICO BURRELL, et al.,  
(Dominick Sherland, a/k/a "D-Nick")

Defendant.

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PLEASE TAKE NOTICE that upon the annexed affirmation of Edward V. Sapone, Esq., dated August 28, 2017, the accompanying Memorandum of Law, and all documents and proceedings in this case, the undersigned will move the Honorable Alison J. Nathan, District Judge, United States District Court for the Southern District of New York, for an order:

- (i) dismissing Count Five on the grounds that it violates the Eighth Amendment right to be free from cruel and unusual punishment;
- (ii) compelling the government to provide a bill of particulars, in the alternative, that the Court dismiss Counts One, Three, Five and Six of the Superseding Indictment; and
- (ii) for any additional relief that this Court deems just and proper, or that may become appropriate as a result of information disclosed as a result of this motion or any further proceeding in this case.

No prior application for the requested relief has been made to any court.

Dated:           New York, New York  
                  August 28, 2017

Respectfully submitted,

*/s/ Edward V. Sapone*  
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